

**Notice of Allowability**

Applicant(s)

09/609,598

Examiner

Marissa Thein

Applicant(s)

WALKER ET AL.

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to January 17, 2006.
2. ☒ The allowed claim(s) is/are 1, 3-17, 19-64, and 67-68.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 3/30/06.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

STEVE B. McALLISTER  
PRIMARY EXAMINER

### **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Carson Finchem on March 30, 2006.

The application has been amended as follows:

#### **In the Claims**

Claims 1, 7, 8, 32, 55, 58, 59, 60, and 67 are amended.

#### **Claim 1**

Lines 4-6 have been changed to read as follows:

-- receiving buyer offer information, from the buyer, an indication of an offer amount that the buyer is willing to pay for the plurality of product categories, wherein no buyer preference is indicated among the plurality of products in each of the plurality of categories;--.

Lines 7-9 have been changed to read as follows:

--selecting, for the buyer, by a controller operated by an entity other than the buyer, a subset of the plurality of products for each of the product categories, wherein the selecting is based at least in part on the buyer's offer amount; and--.

Claim 7

Line 2 has been changed to read as follows:

--product categories is retrieved from a database.--

Claim 8

Line 2 has been changed to read as follows:

--product categories and the buyer offer information are received with respect to  
a single transaction.--

Claim 32

Line 2 has been changed to read as follows:

--indication of the plurality of product categories and said receiving the buyer  
offer information are--

Claim 55

Lines 7-9 have been changed to read as follows:

-- receive buyer offer information, from the buyer, an indication of an offer  
amount that the buyer is willing to pay for the plurality of product categories,  
wherein no buyer preference is indicated among the plurality of products in each  
of the plurality of categories;--

Lines 10-11 have been changed to read as follows:

Art Unit: 3627

--select, for the buyer, by a controller operated by an entity other than the buyer, a subset of the plurality of products for each of the product categories, wherein the selecting is based at least in part on the buyer's offer amount; and--.

Claim 58

Lines 5-7 have been changed to read as follows:

--receiving buyer offer information, from the buyer, an indication of an offer amount that the buyer is willing to pay for the plurality of product categories, wherein no buyer preference is indicated among the plurality of products in each of the plurality of categories;--

Lines 8-10 have been changed to read as follows:

--selecting, for the buyer, by a controller operated by an entity other than the buyer, a subset of the plurality of products for each of the product categories, wherein the selecting is based at least in part on the buyer's offer amount; and--.

Claim 59

Lines 8-11 have been changed to read as follows:

--receiving from the buyer a binding offer, including an indication of an offer amount that the buyer is willing to pay for the first set of products and the second set of products, wherein the offer amount may differ from an offer amount defined by another buyer for the same first and second sets of products and no buyer

Art Unit: 3627

preference is indicated among the products in the first and second sets of products;--

Line 12 has been changed to read as follows:

--selecting, for the buyer, by a controller operated by an entity other than the buyer, a first product from the first set of products, wherein the selecting is based at least in part on the buyer's offer amount; --.

Lines 13-15 have been changed to read as follows:

--selecting, for the buyer, by a controller operated by an entity other than the buyer, a second product from the second set of products, wherein at least one of the first product and the second product are selected by the controller based on an associated subsidy and at least in part on the buyer's offer amount;--.

#### Claim 60

Lines 4-6 have been changed to read as follows:

--receiving buyer offer information, from the buyer, an indication of an offer amount that the buyer is willing to pay for the plurality of product categories, wherein no buyer preference is indicated among the plurality of products in each of the plurality of categories;--

Lines 7-9 have been changed to read as follows:

--selecting, for the buyer, by a controller operated by an entity other than the buyer, a subset of the plurality of products for each of the product categories, wherein the selecting is based at least in part on the buyer's offer amount;--

Line 10 has been changed to read as follows:

--evaluating the buyer offer information based on the offer amount; and—

A new added paragraph has been added after the “evaluating” step and reads as follows:

--providing an indication of the selected products.—

Claim 67

Lines 2-3 have been changed to read as follows:

--receiving, from a buyer, an indication of a first product category comprising a first plurality of products;--

Lines 4-5 have been changed to read as follows:

--receiving, from a buyer, an indication of a second product category comprising a second plurality of products;--

Lines 9-11 have been changed to read as follows:

--an offer price, defined by the buyer, that the buyer is willing to pay for first and second subsets of products from the listing each of the first and second product categories, respectively,--

**REASONS FOR ALLOWANCE**

The following is an examiner's statement of reasons for allowance:

Claim 1

Claim 1 recites a method of facilitating a transaction, comprising, *inter alia*:  
receiving buyer offer information, from the buyer, an indication of an offer amount that

Art Unit: 3627

the buyer is willing to pay for the plurality of product categories, wherein no buyer preference is indicated among the plurality of products in each of the plurality of categories; selecting, for the buyer, by a controller operated by an entity other than the buyer, a subset of the plurality of products for each of the product categories, wherein the selecting is based at least in part on the buyer's offer amount.

The most closely applicable prior art of record is referenced to in the Office Action mailed on October 11, 2005 as the website [www.peapod.com](http://www.peapod.com) (Peapod). Peapod discloses is a grocery/drugstore shopping and delivery service, where a customer or consumer can shop from home or office via computer (modem or Internet connection) (page 4). The customer can decide what they want, whether cereal, cheese or a particular brand of product (page 7). The customer can shop by specific product or category (page 42). The customer can create a personal list of items, where the customer can save their most frequently ordered items (page 21). The customer can create multiple Personal Lists, for example baby items list, or a diet lists (page 21). Furthermore, Peapod discloses electronic coupons, where various manufacturers have included special discounts for customers (page 22). However, Peapod neither anticipates or fairly and reasonably teaches a method of facilitating a transaction, comprising, *inter alia*: receiving buyer offer information, from the buyer, an indication of an offer amount that the buyer is willing to pay for the plurality of product categories, wherein no buyer preference is indicated among the plurality of products in each of the plurality of categories; selecting, for the buyer, by a controller operated by an entity

other than the buyer, a subset of the plurality of products for each of the product categories, wherein the selecting is based at least in part on the buyer's offer amount.

Sehr (U.S. Patent No. 5,566,327) neither anticipates or fairly and reasonable teaches a method of facilitating a transaction, comprising, *inter alia*: receiving buyer offer information, from the buyer, an indication of an offer amount that the buyer is willing to pay for the plurality of product categories, wherein no buyer preference is indicated among the plurality of products in each of the plurality of categories; selecting, for the buyer, by a controller operated by an entity other than the buyer, a subset of the plurality of products for each of the product categories, wherein the selecting is based at least in part on the buyer's offer amount. Sehr's disclosure teaches away from the receiving buyer offer information, from the buyer, an indication of an offer amount that the buyer is willing to pay for the plurality of product categories, wherein no buyer preference is indicated among the plurality of products in each of the plurality of categories; selecting, for the buyer, a controller operated by an entity other than the buyer, a subset of the plurality of products for each of the product categories, wherein the selecting is based at least in part on the buyer's offer amount. This is because Sehr teaches a computerized theme park information system that provides value-added manipulation of data and information that relates to the services and products that are provided by a theme park, to the contents of a guest card (col. 1, lines 6-10). The guest card Includes contents such as types of services/products and a detailed status of the services and products the guest card is entitled to as well as how much money is in the card (col. 3, lines 62-66). Furthermore, a visitor can tailor his or her guest card by



Art Unit: 3627

partitioning the money amount that is loaded into the guest card (col. 3, line 66 – col. 4, line 3).

#### Claim 55

Claim 55 recites an apparatus for facilitating a transaction comprising, *inter alia*: receive buyer offer information, from the buyer, an indication of an offer amount that the buyer is willing to pay for the plurality of product categories, wherein no buyer preference is indicated among the plurality of products in each of the plurality of categories; select, for the buyer, by a controller operated by an entity other than the buyer, a subset of the plurality of products for each of the product categories, wherein the selecting is based at least in part on the buyer's offer amount. This apparatus is allowable over the prior art of record for reasons consistent with those identified above with respect to claim 1.

#### Claim 58

Claim 58 recites a medium storing instructions adapted to be executed by a processor to perform a method for facilitating a transaction, said method comprising, *inter alia*: receiving buyer offer information, from the buyer, an indication of an offer amount that the buyer is willing to pay for the plurality of product categories, wherein no buyer preference is indicated among the plurality of products in each of the plurality of categories; selecting, for the buyer, by a controller operated by an entity other than the buyer, a subset of the plurality of products for each of the product categories, wherein the selecting is based at least in part on the buyer's offer amount. This medium storing

instructions is allowable over the prior art of record for reasons consistent with those identified above with respect to claim 1.

Claim 59

Claim 59 recites a computer-implemented method of facilitating the sale of products, comprising, *inter alia*: receiving from the buyer a binding offer, including an indication of an offer amount that the buyer is willing to pay for the first set of products and the second set of products, wherein the offer amount may differ from an offer amount defined by another buyer for the same first and second sets of products and no buyer preference is indicated among the products in the first and second sets of products; selecting, for the buyer, by a controller operated by an entity other than the buyer, a first product from the first set of products, wherein the selecting is based at least in part on the buyer's offer amount; selecting, for the buyer, by a controller operated by an entity other than the buyer, a second product from the second set of products, wherein at least one of the first product and the second product are selected by the controller based on an associated subsidy and at least in part on the buyer's offer amount. This computer-implemented method is allowable over the prior art of record for reasons consistent with those identified above with respect to claim 1.

Claim 60

Claim 60 recites a method of facilitating a transaction, comprising, *inter alia*: receiving buyer offer information, from the buyer, an indication of an offer amount that the buyer is willing to pay for the plurality of product categories, wherein no buyer preference is indicated among the plurality of products in each of the plurality of

Art Unit: 3627

categories; selecting, for the buyer, by a controller operated by an entity other than the buyer, a subset of the plurality of products for each of the product categories, wherein the selecting is based at least in part on the buyer's offer amount. This method is allowable over the prior art of record for reasons consistent with those identified above with respect to claim 1.

#### Claim 67

Claim 67 recites a method, comprising, *inter alia*: receiving an offer from the buyer, the offer including: an offer price, defined by the buyer, that the buyer is willing to pay for first set and second subsets of products from the listing each of the first and second product categories, respectively, wherein the first and second subset products are to be later selected by a controller operated by an entity other than the buyer, and; selecting, by a controller, the first and second subsets of products wherein the selecting is based at least in part on the buyer's offer price. This method is allowable over the prior art of record for reasons consistent with those identified above with respect to claim 1.

#### Claim 68

Claim 68 recites a method, comprising, *inter alia*: receiving, from the buyer, an indication of an offer price that the buyer is willing to pay for any of the at least two products from each of the plurality of product categories, wherein no buyer preference is indicated between at least two products from each of the plurality of product categories; selecting, for the buyer, by a controller operated by an entity other than the buyer, one of the at least two products from each of the plurality of product categories, wherein the

Art Unit: 3627

selecting is based at least in part on the buyer's offer price. This method is allowable over the prior art of record for reasons consistent with those identified above with respect to claim 1.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marissa Thein whose telephone number is 571-272-6764. The examiner can normally be reached on M-F 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alex Kalinowski can be reached on 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mtot  
April 2, 2006



STEVE B. MCALLISTER  
PRIMARY EXAMINER